

107TH CONGRESS  
2D SESSION

# S. 2727

To provide for the protection of paleontological resources on Federal lands,  
and for other purposes.

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## IN THE SENATE OF THE UNITED STATES

JULY 12 (legislative day, JULY 10), 2002

Mr. AKAKA introduced the following bill; which was read twice and referred  
to the Committee on Energy and Natural Resources

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## A BILL

To provide for the protection of paleontological resources  
on Federal lands, and for other purposes.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

3       **SECTION 1. SHORT TITLE.**

4       This Act may be cited as the “Paleontological Re-  
5       sources Preservation Act”.

6       **SEC. 2. FINDINGS.**

7       The Congress finds the following:

8               (1) Paleontological resources are nonrenewable.

9       Such resources on Federal lands are an accessible  
10       and irreplaceable part of the heritage of the United

1 States and offer significant educational opportunities  
2 to all citizens.

3 (2) Existing Federal laws, statutes, and other  
4 provisions that manage paleontological resources are  
5 not articulated in a unified national policy for Fed-  
6 eral land management agencies and the public. Such  
7 a policy is needed to improve scientific under-  
8 standing, to promote responsible stewardship, and to  
9 facilitate the enhancement of responsible paleon-  
10 tological collecting activities on Federal lands.

11 (3) Consistent with the statutory provisions ap-  
12 plicable to each Federal land management system,  
13 reasonable access to paleontological resources on  
14 Federal lands should be provided for scientific, edu-  
15 cational, and recreational purposes.

16 **SEC. 3. PURPOSE.**

17 The purpose of this Act is to establish a comprehen-  
18 sive national policy for preserving and managing paleon-  
19 tological resources on Federal lands.

20 **SEC. 4. DEFINITIONS.**

21 As used in this Act:

22 (1) CASUAL COLLECTING.—The term “casual  
23 collecting” means the collecting of a reasonable  
24 amount of paleontological resources for noncommer-  
25 cial use with the use of nonpowered hand tools re-

1 sulting in negligible disturbance to the Earth’s sur-  
2 face.

3 (2) SECRETARY.—The term “Secretary” means  
4 the Secretary of the Interior with respect to lands  
5 administered by the Secretary of the Interior or the  
6 Secretary of Agriculture with respect to National  
7 Forest System Lands administered by the Secretary  
8 of Agriculture.

9 (3) FEDERAL LANDS.—The term “Federal  
10 lands” means lands administered by the Secretary of  
11 the Interior or National Forest System Lands ad-  
12 ministered by the Secretary of Agriculture.

13 (4) PERSON.—The term “person” includes an  
14 individual, corporation, partnership, trust, institu-  
15 tion, association, any other private entity, an officer,  
16 employee, agent, department, or instrumentality of  
17 the United States, an Indian tribe, and a State or  
18 political subdivision of a State.

19 (5) STATE.—The term “State” means the fifty  
20 States, the District of Columbia, the Commonwealth  
21 of Puerto Rico, and any other territory or possession  
22 of the United States.

23 (6) PALEONTOLOGICAL RESOURCE.—The term  
24 “paleontological resource” means any fossilized re-  
25 mains, traces, or imprints of organisms, preserved in

1 or on the Earth's crust, except that the term does  
2 not include—

3 (A) any materials associated with an ar-  
4 chaeological resource (as defined in section 3(1)  
5 of the Archaeological Resources Protection Act  
6 of 1979 (16 U.S.C. 470bb(1));

7 (B) any cultural item (as defined in section  
8 2 of the Native American Graves Protection  
9 and Rehabilitation Act (25 U.S.C. 3001)); or

10 (C) energy minerals such as coal, oil and  
11 gas, oil shale, bitumen, lignite, asphaltum, and  
12 tar sands.

13 **SEC. 5. MANAGEMENT.**

14 (a) IN GENERAL.—The Secretary shall manage and  
15 protect paleontological resources on Federal lands using  
16 scientific principles and expertise. The Secretary shall de-  
17 velop appropriate plans for inventory, monitoring, and the  
18 scientific and educational use of paleontological resources,  
19 in accordance with applicable agency laws, regulations,  
20 and policies. These plans shall emphasize interagency co-  
21 ordination and collaborative efforts where possible with  
22 non-Federal partners, the scientific community, and the  
23 general public.

24 (b) COORDINATION OF IMPLEMENTATION.—To the  
25 extent possible, the Secretary of the Interior and the Sec-

1 retary of Agriculture shall coordinate in the implementa-  
2 tion of this Act.

3 **SEC. 6. PUBLIC AWARENESS AND EDUCATION PROGRAM.**

4 The Secretary shall establish a program to increase  
5 public awareness about the significance of paleontological  
6 resources.

7 **SEC. 7. COLLECTION OF PALEONTOLOGICAL RESOURCES.**

8 (a) PERMIT REQUIREMENT.—

9 (1) IN GENERAL.—Except as provided in this  
10 subsection, a paleontological resource may not be  
11 collected from Federal lands without a permit issued  
12 under this Act by the Secretary.

13 (2) CASUAL COLLECTING EXCEPTION.—The  
14 Secretary may allow casual collecting of abundant  
15 invertebrate and plant paleontological resources, for  
16 scientific, educational, and recreational uses, without  
17 a permit, where such collection is consistent with the  
18 laws governing the management of those Federal  
19 lands and this Act.

20 (3) PREVIOUS PERMIT EXCEPTION.—Nothing in  
21 this section shall affect a valid permit issued prior  
22 to the date of enactment of this Act.

23 (b) CRITERIA FOR ISSUANCE OF A PERMIT.—The  
24 Secretary may issue a permit for the collection of a paleon-

1 tological resource pursuant to an application if the Sec-  
2 retary determines that—

3           (1) the applicant is qualified to carry out the  
4           permitted activity;

5           (2) the permitted activity is undertaken for the  
6           purpose of furthering paleontological knowledge or  
7           for public education;

8           (3) the permitted activity is consistent with any  
9           management plan applicable to the Federal lands  
10          concerned; and

11          (4) the proposed methods of collecting will not  
12          threaten significant natural or cultural resources.

13          (c) PERMIT SPECIFICATIONS.—A permit for the col-  
14          lection of a paleontological resource issued under this sec-  
15          tion shall contain such terms and conditions as the Sec-  
16          retary deems necessary to carry out the purposes of this  
17          Act. Every permit shall include requirements that—

18               (1) the paleontological resource that is collected  
19               from Federal lands under the permit will remain the  
20               property of the United States;

21               (2) the paleontological resource and copies of  
22               associated records will be preserved for the public in  
23               an approved repository, to be made available for sci-  
24               entific research and public education; and

1           (3) specific locality data will not be released by  
2           the permittee or repository without the written per-  
3           mission of the Secretary.

4           (d) MODIFICATION, SUSPENSION, AND REVOCATION  
5           OF PERMITS.—

6           (1) The Secretary shall modify, suspend, or re-  
7           voke a permit—

8                     (A) for resource, safety, or other manage-  
9                     ment considerations; or

10                    (B) when there is a violation of term or  
11                    condition of a permit issued pursuant to this  
12                    section.

13           (2) The permit shall be revoked if any person  
14           working under the authority of the permit is con-  
15           victed under section 9 or is assessed a civil penalty  
16           under section 10.

17           (e) AREA CLOSURES.—In order to protect paleon-  
18           tological resource or other resources and to provide for  
19           public safety, the paleontological resource may restrict ac-  
20           cess to or close areas under the Secretary's jurisdiction  
21           to the collection of paleontological resource.

22           **SEC. 8. CURATION OF RESOURCES.**

23           Any paleontological resource, and any data and  
24           records associated with the resource, collected under a per-  
25           mit, shall be deposited in an approved repository. The Sec-

1 retary may enter into agreements with non-Federal reposi-  
2 tories regarding the curation of these resources, data, and  
3 records.

4 **SEC. 9. PROHIBITED ACTS; PENALTIES.**

5 (a) IN GENERAL.—A person may not—

6 (1) excavate, remove, damage, or otherwise  
7 alter or deface or attempt to excavate, remove, dam-  
8 age, or otherwise alter or deface any paleontological  
9 resources located on Federal lands unless such activ-  
10 ity is conducted in accordance with this Act;

11 (2) exchange, transport, export, receive, or offer  
12 to exchange, transport, export, or receive any pale-  
13 ontological resource if such resource was excavated,  
14 removed, exchanged, transported, or received from  
15 Federal lands in violation of any provisions, rule,  
16 regulation, law, ordinance, or permit in effect under  
17 Federal law, including this Act; or

18 (3) sell or purchase or offer to sell or purchase  
19 any paleontological resource if such resource was ex-  
20 cavated, removed, sold, purchased, exchanged, trans-  
21 ported, or received from Federal lands.

22 (b) FALSE LABELING OFFENSES.—A person may not  
23 make or submit any false record, account, or label for,  
24 or any false identification of, any paleontological resource  
25 excavated or removed from Federal lands.



1 (c) PENALTIES.—

2 (1) IN GENERAL.—Except as provided in para-  
 3 graphs (2) and (3), a person who knowingly or will-  
 4 ingly violates or counsels, procures, solicits, or em-  
 5 ploys another person to violate subsection (a) or (b)  
 6 shall, upon conviction, be guilty of a class A mis-  
 7 demeanor.

8 (2) DAMAGE OVER \$1,000.—If the sum of the  
 9 scientific or fair market value of the paleontological  
 10 resources involved and the cost of restoration and  
 11 repair of such resources exceeds the sum of \$1,000,  
 12 such person shall, upon conviction, be guilty of a  
 13 class E felony.

14 (3) MULTIPLE OFFENSES.—In the case of a  
 15 second or subsequent such violation, such person  
 16 shall, upon conviction, be guilty of a class D felony.

17 (d) GENERAL EXCEPTION.—Nothing in subsection  
 18 (a) shall apply to any person with respect to any  
 19 paleontological resource which was in the lawful possession  
 20 of such person prior to the date of the enactment of this  
 21 Act.

22 **SEC. 10. CIVIL PENALTIES FOR VIOLATIONS OF REGULA-**  
 23 **TIONS OR PERMIT CONDITIONS.**

24 (a) IN GENERAL.—

1           (1) HEARING.—A person who violates any pro-  
2           hibition contained in an applicable regulation or per-  
3           mit issued under this Act may be assessed a penalty  
4           by the Secretary after the person is given notice and  
5           opportunity for a hearing with respect to the viola-  
6           tion. Each violation shall be considered a separate  
7           offense for purposes of this section.

8           (2) AMOUNT OF PENALTY.—The amount of  
9           such penalty assessed under paragraph (1) shall be  
10          determined under regulations promulgated pursuant  
11          to this Act, taking into account the following factors:

12                 (A) The scientific or fair market value,  
13                 whichever is greater, of the paleontological re-  
14                 source involved.

15                 (B) The cost of response, restoration, and  
16                 repair of the resource and the paleontological  
17                 site involved.

18                 (C) Any other factors considered relevant  
19                 by the Secretary assessing the penalty.

20          (3) MULTIPLE OFFENSES.—In the case of a  
21          second or subsequent violation by the same person,  
22          the amount of a penalty assessed under paragraph  
23          (2) may be doubled.

24          (4) LIMITATION.—The amount of any penalty  
25          assessed under this subsection for any one violation

1        shall not exceed an amount equal to double the cost  
2        of response, restoration, and repair of resources and  
3        paleontological site damage plus double the scientific  
4        or fair market value of resources destroyed or not  
5        recovered.

6        (b) PETITION FOR JUDICIAL REVIEW; COLLECTION  
7 OF UNPAID ASSESSMENTS.—Any person against whom an  
8 order is issued assessing a penalty under subsection (a)  
9 may file a petition for judicial review of the order with  
10 an appropriate Federal district court within the 30-day  
11 period beginning on the date the order making the assess-  
12 ment was issued. The court shall hear the action on the  
13 record made before the Secretary and shall sustain his ac-  
14 tion if it is supported by substantial evidence on the record  
15 considered as a whole.

16        (c) HEARINGS.—Hearings held during proceedings  
17 instituted under subsection (a) shall be conducted in ac-  
18 cordance with section 554 of title 5, United States Code.

19        (d) USE OF RECOVERED AMOUNTS.—No penalties  
20 collected under this section shall be available to the Sec-  
21 retary and without further appropriation may be used only  
22 as follows:

23            (1) To protect, restore, or repair the paleon-  
24            tological resources and sites which were the subject  
25            of the action, or to acquire sites with equivalent re-

1 sources, and to protect, monitor, and study the re-  
2 sources and sites. Any acquisition shall be subject to  
3 any limitations contained in the organic legislation  
4 for such Federal lands.

5 (2) To provide educational materials to the  
6 public about paleontological resources and sites.

7 (3) To provide for the payment of Rewards as  
8 provided in section 11.

9 **SEC. 11. REWARDS FORFEITURE.**

10 (a) REWARDS.—The Secretary may pay from pen-  
11 alties collected under section 9 or 10 of this Act an  
12 amount equal to the lesser of one-half of the penalty or  
13 \$500, to any person who furnishes information which  
14 leads to the finding of a civil violation, or the conviction  
15 of criminal violation, with respect to which the penalty was  
16 paid. If several persons provided the information, the  
17 amount shall be divided among the persons. No officer or  
18 employee of the United States or of any State or local  
19 government who furnishes information or renders service  
20 in the performance of his official duties shall be eligible  
21 for payment under this subsection.

22 (b) FORFEITURE.—All paleontological resources with  
23 respect to which a violation under section 9 or 10 occurred  
24 and which are in the possession of any person, and all  
25 vehicles and equipment of any person that were used in

1 connection with the violation, may be subject to forfeiture  
2 to the United States upon—

3 (1) the person's conviction of the violation  
4 under section 9;

5 (2) assessment of a civil penalty against any  
6 person under section 10 with respect to the viola-  
7 tion; or

8 (3) a determination by any court that the pale-  
9 ontological resources, vehicles, or equipment were in-  
10 volved in the violation.

11 **SEC. 12. CONFIDENTIALITY.**

12 Information concerning the nature and specific loca-  
13 tion of a paleontological resource the collection of which  
14 requires a permit under this Act or under any other provi-  
15 sion of Federal law shall be withheld from the public under  
16 subchapter II of chapter 5 of title 5, United States Code,  
17 or under any other provision of law unless the responsible  
18 Secretary determines that disclosure would—

19 (1) further the purposes of this Act;

20 (2) not create risk of harm to or theft or de-  
21 struction of the resource or the site containing the  
22 resource; and

23 (3) be in accordance with other applicable laws.

1 **SEC. 13. REGULATIONS.**

2 As soon as practical after the date of the enactment  
3 of this Act, the Secretary shall issue such regulations as  
4 are appropriate to carry out this Act, providing opportuni-  
5 ties for public notice and comment.

6 **SEC. 14. SAVINGS PROVISIONS.**

7 Nothing in this Act shall be construed to—

8 (1) invalidate, modify, or impose additional re-  
9 strictions on any activities permitted under the gen-  
10 eral mining laws, or the mineral leasing, geothermal  
11 leasing, and mineral materials disposal laws;

12 (2) apply to, or require a permit for, amateur  
13 collecting of a rock, mineral, or invertebrate or plant  
14 fossil that is not protected under this Act;

15 (3) affect any lands other than Federal lands or  
16 affect the lawful recovery, collection, or sale of pale-  
17 ontological resources from lands other than Federal  
18 lands; or

19 (4) alter or diminish the authority of a Federal  
20 agency under any other law to provide protection for  
21 paleontological resources on Federal lands in addi-  
22 tion to the protection provided under this Act.

23 **SEC. 15. AUTHORIZATION OF APPROPRIATIONS.**

24 There is authorized to be appropriated such sums as  
25 may be necessary to carry out this Act.

